G. R. S. [IX.-5]

Previous references

File No. 140 – 19

1919 – 20

Serial Nos 3 & 4

(Mun P)

Later references.

GENERAL AND REVENUE SE

Serial Nos. 3 & 4

Part B for Feb 1921

SUBJECT.

Question of Amending the Municipal Regulation

8(3) To the D.P Ahalpalang No. R 65-29 dt 1-12-20

Calls for addl information re the disposal of the Valuable Soils in the Shandakkharappa in the Devanga Mohalla.

8(4) From the D.P Ahalpalang No. 48 dt 10-1-21

Forwards the report

31.3.21

G R. S. III-8)

General and Revenue Secretariat.

File No. 1 of 191

Serial No.

Extract of the minute of the 2nd Member of Council On Ml file No 1&n of 1919 serial 2. dated 23rd January 1920

The Deputy Commissioner may be informed that, as the resolution of the municipality to give away the site has been given full effect to, the Government have no power to interfere under section 173 (1) (c) ~~of 174~~ as both these sections do not refer to executed acts whether they be in conformity with the provisions of the Municipal Regulation or not This is a defect in the Municipal Regulation which the Govt are taking steps to rectify at an early date

A draft may be submitted early amending section 174 or 177 Municipal Regulation

Intd M H H

23-1-1920

L S O

Note and bring up

Intd H V R

24/1/20

(4) The following subsection may be added at the end of section 177 of the Municipal Regulation as (c) :—

(v) To declare void and void any act executed by a municipal Council in

NOTE—Contn. sheet.

R. S. III 8)

General and Revenue Secretariat | Jud File No 1160 of 191 9

Serial No

Contravention of any of the provisions of the Regulation and thereund orders, if any, passed by such ~~a municipal~~ Council, without jurisdiction by such Council"

(5) Submitted with reference to para 3 supra

for 8/5/1922 Rev Secy

(6) Is this really necessary? Acts done by the local body in contravention of the Regn, or without jurisdiction are necessary void, and can not bind any party affected by them. Why should they be required being declared void de? Do any such provn found in any other Regn also in force elsewhere?

13 3 22

(7) The draft amendment was submitted in Revenue orders contained in para 2 supra

Norg—Contn sheet

S III 2]

and Revenue 2nd File No 1160 of 191 7

Serial No

(8) Similar provision is found in the Burma municipal Act (vide Sec 186 (2) page 96) and in the Punjab Municipalities Act (Sec 236 (2)) Beyond these, such provisions are do not exist in the municipal Acts of the British Provinces

(9) Subject to reference to para 6 supra

Sd/- 16/8/1920

Mrs 27/3/20

(10) No special provision, as proposed, seems necessary If, however, it is considered desirable, a section may be framed on the lines of the Burma or Punjab Acts

(2nd member)

26 3 20

Mrs 26/3/20

6210 - 263
26 3 20

(11) The matter may be further considered in the Legn Branch under the orders of the Hon'ble Member. The a specific provision as that suggested would help to make the position clear & to dispel

Note—Contn sheet

6536

Serial No

all doubts as the power yet the explanation Mentioned in the Rev Secys advice of 13 3-20 Exhibit. Then has the provision to Consultation necessary further action is not indicated in they opinion

Illegible
27 3 20

Legislative Section
of the Chief Secy.

17883
12 4
25/3

Subject

(12) The question of the admissibility of the proposed amendment has arisen out of the refusal of a Contractor of the municipality to pay Davangere for building a cart stand. The Dy Commr questioned the validity of the refusal on the ground that the suit was a valuable one costing more than Rs1000/- & that the sanction of Govt was not obtained as required by S 40(2) of the municipal Regn. The municipality on the other hand contend that the suit as worth only Rs150 & that they were

Note—Contn. sheet.

G B. S. III-2]

General and Revenue Secretariat

File No 1160 of 1917

Serial No

not allowing these powers
the Resolution of the Mal of
has been given effect to in
the bona fide belief that
the execution of the Resolution
was an order the order
should remain valid
it is questioned by the parties
affected For the present
case the validity of the
has been brought into question
in the municipal Co Council
it will remain in order
for all practical purposes
Now that the Dy Comm
has brought to the notice of
Govt That the action of
the Mal of was ultra vires
the Govt refused to
interfere on the ground that
there is no power to do
so when an act has been
executed.

It is a point for consideration whether the Govt may not reserve powers to amend or modify the

Notes—Contin. sheet.

G R S III 2]

General and Revenue Secretariat

File No 17883 of 1917

Serial No

Resolution of the Council in such cases as in the present one for a similar provision please see Punjab Act S 236 (2) (p 670) and Burma Act S 186 (2) (p 754) in the book put up Submitted for orders

3/11 upon 5/4 (14) The question as to whether such an express provision is necessary and whether Govt are not competent to cancel proceedings or resolns of Mc Councils which are prima facie illegal or void for want of jurisdn

Nine Suppl Acts put up as such are the above Please point similar provisions if any in the Acts of other Pov Provinces

Dr 6/11

(15) Subd Quite apart from Statutory provision, it seems Govt cannot by an executive order, cancel an act of the kind in question executed by a municipal Council, though they are satisfied, on the facts, that the act is manifestly wrong or contravenes any law A specific provision to cover cases of the kind is perhaps necessary.

(16) As noted above, similar provisions are contained only in the Punjab & the Burma Acts

NOTE—Contin. sheet.

(C. R. S. III 2)

General and Revenue Secretariat

17883

File No [illegible] of 191

Serial No

It is however for consideration whether, instead of adding a clause (vide 177 (2) as proposed, a new section may not be added as 177 A on the lines of the See 186 of Burma Act

Act 36/4

(1) Where the absence of any express provision in the Municipal Regs gives interference in the matter does not seem to be justifiable. A new section may perhaps be added to meet the requirements.

(2) It appears to me that the Govt could have taken action under S. 174 (1) at the proper stage before the acts was executed

Submit for orders

To M. 12/5

6455 15 5 20

III Members -

(1) As the municipalities in Category 2 the Municipalities does not feel the need for legislation the matter may be dropped

Ubbi 25/5

To M 26/5

Rev Secy.)

(2) Submitted for perusal vide para 11 supra

Govt 27/5/1920 and Secretary

Govt 27-5-20

Form—Centn. sheet.

R. S III-2]

General and Revenue Secretariat

File No 1100 of 191

Serial No

(4) The I think that there can ought the no interference in the present instance yet it appears to me that it might be desirable to reserve the power of interference to govt in cases where such is indicated in the interests of the public or justice the file may be submitted to the Hon'ble Member again

Sec
30 5 20

6799
1-6-20

Hon'ble Member)

(5) The Rules may be amended in the manner appears by amendment this Resolution be issued the necessary & advisable further action may be taken by the Legislative Department

Sec
6/6

WAR OFFICE
ON JUN 8 1920
No. 8062
e N 130

(3) Secy) (3) ... Circular

(4) Secy
Under Secy)

16/6/20 12-6-20

11-6-20

Note—Contd sheet

(For Disposal at a Meeting) 7 No C 71[illegible]

19-[illegible]

GENERAL AND REVENUE SECRETARIAT

Council Matter

—o—

SUBJECT

(Clause ii of the Schedule.)

Question of amending the Municipal Regulation

CIRCULATED TO THE MEMBERS OF COUNCIL

By Order,

C S Balasundaram Jr

17th June 19 20. *Chief Secretary to Government.*

Extraordinary Member of Council

54/1916 **First Member of Council.** [illegible]

Second Member of Council **Seen**

Third Member of Council **Seen.**

17583

c718/9

"D" - 7.

Question of amending the Municipal Regulation

...

Opinion of the Council

Serial No.

Subd

2) Read reference to enclosed letter note contained in pages 6-7 of the Municipal Regulations power to the municipal councils to sell or otherwise transfer any movable or immovable property vested in them, provided that municipal councils other than city municipal councils have to obtain the previous sanction of the Govt to transfer property of value over Rs 150/ In the present case the Dambagoya municipal council have acted under the belief that the ground is of not more than Rs 150/- in value. The question whether the municipality acted within their powers depends on the question whether the sale is valued at Rs 150 or more — which is purely a question of fact The purpose for which

NOTE—Contn. sheet.

Serial No

Sale was granted seems to be covered by the provisions contained in S 52

30) The Dy commr could have objected to the transfer under S 173 (1) (e) when the thing was about to be done. seems being done and he might have been prohibited at that time the doing of the thing under S 174. Now that the Sale has been granted the Dy commr. cannot interfere and nor the Govt. in revn powers to ~~revoke~~ cancel the grant of the municipal council

31) But if the Govt are satisfied that the municipal council have abused their powers, the only recourse they have is to declare under S 179 the municipal council to have abused their powers and supersede them for a specified period

32) The Govt Advocate has been consulted, vide Govt in Council page 9 of this

Nov 1917

G. R. S. III-2]

General and Revenue Secretariat.

File No. of 191

17883

Serial No

D No 10-20

Protection

24/8/20

Chief

1179

O No 14/1920-21

9-7-1920

Forwarded Hd. with Compliments to the Govt Advocate for favour of opinion.

R.-d.
Maharaja
for Chief Secy to Govt
24/8/1920

34 Under sub-sec (2) of Sec 40 of the Munic Reg VII of 1906, as amended by Sec 1 of Reg VIII of 1915, the previous sanction of Govt is necessary to validate a sale or transfer of municipal property above a certain pecuniary value prescribed thereon & under sub-Sec (7) unless the requirements mentioned thereon are fulfilled no Contract of the kind referred to in Sec 40 shall be binding on the Municipal Council. Take for Example the Case of an invalid transfer - void by reason of the previous sanction of Govt not having been obtained - what is the procedure prescribed by the Munic Reg enabling Govt to render such a sale inoperative? So long as the matter is in the stage of a mere agreement to sell or even of a sale but unaccompanied by delivery of possession it seems to me

XXIII—Genin. dept.

Serial No

that the Completion of the Sale in the former Case & the delivery of poss" in pursuance of the Sale in the latter Case can be prevented by the D" Com" acting as the agent of Govt under Sec 174 (1) of the Reg", if the Municipal Council will not itself do it on its attention being drawn by the D" Com" in the manner provided in Sec 173 (1)(c). Under Sec 174 (3) Govt have the power to confirm or modify the order of the D" Com" passed under Sec 174 (1). There is however no provision in the Mun' Reg" as far as I can see enabling Govt to cancel the transfer after delivery of poss", but under the general law a right of suit is given to every party affected prejudically by the transaction & a suit will lie at the instance of Govt or of any rate payer to obtain a declaration of the invalidity of the Sale & for recovery of poss" thereof, subject of course to such equities as may exist in favour of the transferee —

To amend or modify a resolution of the Mun' Council not already given

Note—Contn sheet.

Serial No

effect to, there is as I stated above power given under sec 174 But if the resolution is given effect to as for example in the case of a sale cited above by delivery of possession an amendment of the kind proposed will be ineffectual - It may no doubt enable Govt to declare that the act of the Municipal Council in giving away the site is unlawful & invalid & to annul all the proceedings of the Municipal Council in regard to the transfer but it will not enable Govt to take back possession from the third party without the intervention of the Court -

3) The provisions of the Burma & Punjab acts - sec 186 of the Burma act & sec 236 of the Punjab act - which are identical in language extent & scope will enable Govt to annul or modify any proceeding which is not in accordance with law or rules having the force of law but in cases where possession has passed to third parties the order of Govt cannot it seems to me carry the matter very much

Serial No

higher than what his Counsel's operation of Sec[s] 173 (1)(c) and 174 & 180 of our Mun[l] Reg[n] Can. Moreover on general principles it seems to me that where the sanction of Govt is necessary & any municipal Council does any act without obtaining the sanction as required by the Statute, such an act would be void & not binding on the Corporation & Civil Courts have jurisdiction to determine whether a municipal act or undertaking is ultra vires & void & to enjoin or prohibit the Municipality from engaging therein

It nevertheless it seems to me that there may be Cases in which the power intended to be reserved to Govt by the proposed amendment may be usefully exercised to restore, wherever practicable the status ante quo, at all events where the annulment or cancellation of the proceedings of a Mun[l] Council can have that effect without anything more being done & Govt sees the necessity for legislation in this direction there is no objection to it being undertaken.

7-8-20

H. S. III 2]

General and Revenue Secretariat

1758

File No 44 of 19 17

Serial No

Sent with the opinion of the Govt Advocate

D/ 14/8

Chief secy

3rd member
2nd member

1599/1920

Chief 31/8/20

D/ 31/8

1717-209/11 9 20

I have the first address ordered on D/ 10/9 clear that sufficient powers exist to prevent any abuse of such as suspected It does not appear to me that addl powers are required The Govt have sufficient powers of interference & first can exercise their power of veto also Before further legislation is undertaken it will be better I think to gain some more experience The only inconvenience is that if the transaction is an accomplished fact it is not possible to restore the status ante quo except thro the intervention of a Civil Court but this may not be expedient in certain circumstances But these are extreme cases and time may therefore elapse before further legislation is enacted of

Revd 18/9/20

III Member 41

Room—Contin. sheet

1957/18.9.20

S 111 2

and Revenue Secretariat

File No 1144 of 191

Serial No

The question having been referred to the Council, will have the pleasure of meeting

Circulate

22/9

(For Disposal at a Meeting)

No C 2 2 1
19 20

GENERAL AND REVENUE SECRETARIAT

Council Matter

SUBJECT

(Clause ii of the Schedule.)

Question of ammending the Mysore Municipal Regulation.

RE- CIRCULATED TO THE MEMBERS OF COUNCIL
with reference to Council instructions dated 1st July 1920.

By Order,

1st October 19 20. *Chief Secretary to Government.*

Extraordinary Member of Council.

First Member of Council

Second Member of Council Seen.

Third Member of Council Seen.

(224

"D" - 6

Question of amending the Mysore
Municipal Regulation (17883/Legis)

OPINION OF THE COUNCIL

44 Note.
The matter may be dropped -
Enquiry may perhaps be
made as to whether the land
in qn was vested in the Munic
or not

COK
23/10/20

To the Addl Secy Prohn Branch

COK
24/10

45 Do 7 4 Please
for
25/10

S III 2]

and Revenue Secretariat | Rev File No 140 of 1919

Serial No.

46 Draft D & C announced
The Secy —
47 May be viewed by the Secy
pl see Secy D
D M
1/2/20

2/2/20

48 Perused. Since no resolution has been passed in Council, the submission of the case to H.H. does not seem to be necessary
Sec In this view the file may perhaps be transferred to the Rev Secrt for necessary engiry
action in regard to the suggested ~~engiry~~ contained in the Council Note

11-20
11/11
Rev Secrt
D M
12/11

N 20
50 Draft Enquiry Sub: accordingly
Sec
25/11/20
Sec
Issue Mgr
27-11

3 To the Collector no R 6529 dt 1.12.20 with
request information
re the disposal of a valuable sub- to Mr
Shadakshariappa in the Devarakere Town

4 From the Collector dt
no Dy dis 487 and of 20
In reply to Cl 3, representation
of Shadakshara dated forwards

Note.—Quote sheet.

54

G. R. S. III 2]

General and Revenue Secretariat.

File No. 160 of 1919

Serial No.

to the effect that the land in question was vested in the municipality

a copy of the letter received from the Medical Practitioner examined in the matter submitted for perusal with reference to paragraph 4 of the Supra Resolution)

Sd/-
19/1/21

Sd/-
19.1.21.

The papers may now be recorded

Sd/-
3rd Assistant)

3554-13Y
26/1/21

Sd/-
25-1-21

Sd/-
Secretary

Sd/-

NOTE—Contn. sheet.

G. R. S. VI—6/32]

SUBJECT .....

Library No. of letter replied to 17883/19

General and Revenue Secretariat

( )

, the 191

Date of issue 1-12-20

Signed by Mr. H. V. Ramaswamy

Section

File No. 460-19

Serial No. 3

No. R 65293 1-12-20

Encl. 1 V P file

To The Deputy Chief Engineer, Chittoor

Sir,

Adverting to your letter No. 665 M/B/19 dt. 21.11.19 regarding the proposal of a bullock cart in the Ramachandra Reddy's compound, Tirupati for the use of Shadakshara for building a Cart-Stand and in continuation of

List of enclosures.

Copied by

Examined by

R 140-19-4

Office of the Deputy Commissioner,
Chitaldrug District.
Dated Chitaldrug, 18th January 1921.

C. Venkata Rao Esquire B.A.,
Deputy Commissioner,
C H I T A L D R U G.

B. Aravamudiengar Esquire B.A.,B.L.,
Secretary to the Government of
H. H. the Maharaja of Mysore,
Revenue Department, Bangalore.

D No 5426
18-1-21.

Adverting to your letter No R 6529/11 140-19-3 dated 1st ember 1920 enquiring whether the land granted to Mr Shadakshirappa the municipal council of Davangere was vested in the municipality not, I have the honor to reply in the affirmati e

A copy of letter No 261A dated 7th January 1921 received m the President of the Davangere Municipal council on the subject herewith submitted for perusal

I ha e the horor o be,
S I R,
Your m s obedient servant,

Deputy Commissioner,
Chitaldrug District

S V

Rec'd 17 JAN 1921

1921

From The Deputy Commissioner
Chitaldrug Division

4550-3

To The Secretary to Government
Revenue Department

Dated 15th Bangalore

Despatched

Received January 1921

General No. 1929-21 & 2nd of 20-21
No.

Enclosure No 1

Stating that the
lands granted to
the Bhadrashrama Sha
by the Municipal Comm
of Davangere were
checked in the
Municipality &c

Letter No 261 dated 7th January 1921 from the President Davangere municipalit to the Deputy Commissioner, Chitaldrug Dis -

With reference to your memo No Ref C 180 M1 1920-21 dated 21 December 1920, I have the honor to state that two sites Nos 21 a in the Chitaldrug road extension of Davangere municipality which been granted to Mr M Shadaksharappa for constructing a cart-stand rest-house are vested in the municipality, the S No having been acquired for the municipality in Government Order No R 3949/L R 24 - 03 dated 27th December 1907

The Vernacular records received with the memo under reply ar returned herewith

"COPY"

Deputy Commissioner,
Chitaldrug District

C S R